

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOSE SAUL DELIRA,

Defendant.

4:22-CR-3034

ORDER

This matter is before the Court on the Magistrate Judge's Findings and Recommendation ([filing 38](#)) recommending that the Court deny the defendant's motion to suppress ([filing 30](#)) in part. The defendant has not objected to the Magistrate Judge's findings and recommendation. *See* [NECrimR 59.2\(a\)](#).

Title 28 U.S.C. § 636(b)(1) provides for de novo review of a Magistrate Judge's findings or recommendations only when a party objects to them. *Peretz v. United States*, 501 U.S. 923 (1991). Failure to object to a finding of fact in a Magistrate Judge's recommendation may be construed as a waiver of the right to object from the district court's order adopting the recommendation of the finding of fact. [NECrimR 59.2\(e\)](#). The claimant was expressly advised that "failing to file an objection to this recommendation as provided in the local rules of this court may be held to be a waiver of any right to appeal the court's adoption of the recommendation." [Filing 38 at 10](#). And the failure to file an objection eliminates not only the need for de novo review, but any review by the Court. *Thomas v. Arn*, 474 U.S. 140 (1985); *Leonard v. Dorsey & Whitney LLP*, 553 F.3d 609 (8th Cir. 2009); *see also United States v. Meyer*, 439 F.3d 855, 858-59 (8th Cir. 2006).

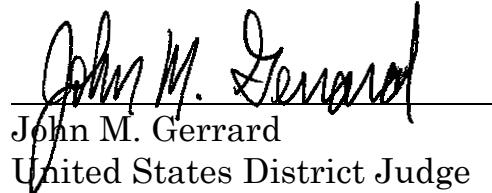
Accordingly, the Court will adopt the Magistrate Judge's recommendation that the claimant's motion to suppress be denied to the extent it is based on a challenge to the search warrant, and any objection is deemed waived.

IT IS ORDERED:

1. The Magistrate Judge's Findings and Recommendation ([filing 38](#)) are adopted.
2. The defendant's motion to suppress ([filing 30](#)) is denied as to his challenge to the search warrant, but shall remain pending with respect to his other Fourth and Fifth Amendment challenges.

Dated this 23rd day of November, 2022.

BY THE COURT:



John M. Gerrard
United States District Judge